

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

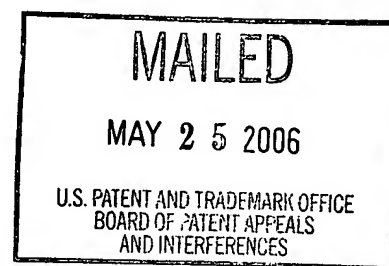
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CAITLYN CURTIN

Appeal No. 2006-1154
Application 10/733,414

ON BRIEF



Before WARREN, WALTZ and JEFFREY T. SMITH, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

REMAND TO THE EXAMINER

We remand the application to the examiner for consideration and explanation of issues raised by the record. 37 CFR §41.50(a)(1) (2005); Manual of Patent Examining Procedure (MPEP) § 1211 (8th ed., Rev. 3, August 2005).

The official electronic records show that on July 25, 2005, appellant filed a response to the final action mailed June 20, 2005. In the brief filed September 26, 2005, appellant points to the amendment, stating that “[n]o advisory action has been received to date” (page 1). In the answer mailed November 3, 2005, the examiner states that “[n]o amendment after final has been filed” (page 2).

Thus, the record contains an unacknowledged response by appellant.

The official electronic records further show that on January 3, 2006, appellant filed a reply brief. In the communication mailed February 3, 2006, the examiner states “[t]he primary

examiner acknowledges receipt and compliance with appellant's reply brief filed within two months of examiner's answer."

37 CFR §41.43 (2005) requires the primary examiner to acknowledge receipt and entry of a reply brief. If the prosecution is maintained on appeal, the examiner should also state whether the reply brief has been considered. MPEP § 1208, II. Examiner's Response To A Reply Brief (8th ed., Rev. 3, August 2005; 1200-46). These requirements are not satisfied by a statement that the USPTO received the reply brief within the period set by 37 CFR §41.41(a)(1) (2005).

Accordingly, the examiner is required to take appropriate action consistent with current examining practice and procedure to clarify the record with respect to the status of the above documents, with a view toward placing this application in condition for decision on appeal with respect to the issues presented.

This remand is *not* made for the purpose of directing the examiner to further consider the grounds of rejection.

We hereby remand this application to the examiner, via the Office of a Director of the Technology Center, for appropriate action in view of the above comments.

This application, by virtue of its “special” status, requires immediate action. It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal in this case. *See* MPEP § 708.01(D) (8th ed., Rev. 3, August 2005).

Remanded

De F. H. H.

CHARLES F. WARREN
Administrative Patent Judge

Thomas A. Waltz

THOMAS A. WALTZ
Administrative Patent Judge

Alfred Jones

JEFFREY T. SMITH
Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

Appeal No. 2006-1154
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